

Industrial Relations News



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Welcome from the Executive Director

Welcome to the June 2017 edition of *Industrial Relations News*.

Principals may be turning their mind to planning for next year and considering what changes could be implemented and whether those changes may create a redundancy or variation of hours. This edition provides information on the redundancy process and the requirements for a variation of hours.

WorkSafe Victoria is conducting a project in which WorkSafe Inspectors will assess the systems that are in place to prevent and manage work-related stress and bullying. WorkSafe Victoria conducted a similar program in Department of Education and Training in 2016, to assess schools' compliance with the *Occupational Health and Safety Act 2004* and, where necessary, provide practical guidance and information about employer obligations.

This edition also contains information regarding child safety, work experience, the recent Commonwealth government changes to 457 Visas and electrical safety.

Details of training sessions and bookings for Industrial Relations (IR) and Occupational Health and Safety (OHS) can be made on [My PL \(IPLS\)](#) through the CEVN website <https://cevn.cecv.catholic.edu.au> under *Professional Learning / My PL (IPLS)*.

For enquiries regarding any of the matters in this newsletter, please contact the Industrial Relations Unit on 03 9267 0431. Alternatively, please email ceoir@cem.edu.au for any Industrial Relations matters or ohs@cem.edu.au for any OHS or WorkCover issues.

Stephen Elder
EXECUTIVE DIRECTOR

Reportable Conduct Scheme

In response to the 2013 [Betrayal of Trust Report](#), the Victorian government has progressively introduced legislative reforms, to ensure organisations providing services for children and young people prioritise their safety and wellbeing.

More recently, the [Children Legislation Amendment \(Reportable Conduct\) Act 2017 \(Vic.\)](#) has been passed by the Victorian parliament, paving the way for the introduction of a Victorian Reportable Conduct Scheme. This legislation amends the *Child Wellbeing and Safety Act 2005 (Vic.)*.

The Scheme aims to improve oversight of how organisations respond to allegations of child abuse and child-related misconduct by employees and volunteers. It does so by overseeing workplace investigations into child abuse. The Scheme forms part of a broader child safety framework and complements the initiatives already in place in Catholic schools.

From 1 July 2017, the [Commission for Children and Young People \(CCYP\)](#) will administer, oversee and monitor the Scheme. All schools in Victoria are included in the first phase roll-out. The CCYP is preparing guidance material to support the introduction of the Scheme in relevant organisations.

The Catholic Education Commission of Victoria Limited (CECV) has established a Reportable Conduct Working Party to provide advice and to develop implementation plans for the Scheme's introduction in Catholic schools in Victoria. Further updates will be provided to principals regarding school support and implementation processes.

VCEMEA Update

Negotiations are continuing between the CECV and the Independent Education Union Victoria Tasmania (IEU) for the successor to the *Victorian Catholic Education Multi Enterprise Agreement 2013* [VCEMEA](#).

The in-principle Agreement reached between the Department of Education and Training (DET) and the Australian Education Union (AEU) has been endorsed by the state government and relevant committees. The DET has yet to conduct a ballot of

all employees who will be covered by the Agreement. The DET Agreement will commence following approval by the Fair Work Commission.

Enterprise Bargaining information can be found in the Frequently Asked Questions on the [CECV website](#) under *Industrial Relations / Enterprise Bargaining*.

Annual Review Meetings (ARM)

Each Annual Review Meeting (ARM) should be conducted by the principal or the principal's nominee, and employees are to be given reasonable notice of any issues to be discussed in the ARM.

The ARM for a teacher must be conducted in accordance with the teacher's level standard (graduate/proficient/highly accomplished/lead) of professional practice, as detailed by the [Australian Institute for Teaching and School Leadership \(AITSL\)](#) standards.

Principals may also require education support employees to participate in an ARM.

The ARM should be a collaborative process within which there is a genuine exchange of ideas and views between the employee and the principal.

The ARM is intended to be a positive process for the employee and the principal to:

- identify and establish professional development goals and avenues
- affirm achievements and identify areas for improvement and development
- assist teachers in relation to the AITSL Australian Professional Standards for Teachers.

If a principal has concerns about an employee's conduct or performance, these concerns should be managed in accordance with Clause 13 of the [VCEMEA](#). ARMs may not be used in lieu of the procedures outlined in Clause 13.

ARM Guidelines and suggested template forms are available on the [CECV website](#) under *Industrial Relations / Policies and Guidelines / Annual Review Meetings*.

WorkSafe Victoria Visits

WorkSafe Victoria (WorkSafe) is conducting a project addressing work-related stress and bullying in Victorian independent and Catholic schools. WorkSafe has planned 40 visits to Catholic and independent schools by inspectors during Terms 2 and 3. The primary focus of these inspections is to assess the systems that schools have in place to prevent and manage work-related stress and bullying.

If your school has been selected for potential involvement in this project, you may be contacted by a WorkSafe Inspector to arrange a time to meet with the principal, the leadership team, and the school's employee representative(s).

During these visits, inspectors who specialise in psychological health and safety will meet with school senior leadership and employee representatives to:

- ensure schools have systems of work in place to control the risks associated with work-related stress
- provide education and advice about how to prevent and manage work-related stress.

Inspectors will assess schools' compliance with the [Occupational Health and Safety Act 2004](#) and, where necessary, provide practical guidance and information about employer obligations under the Act.

WorkSafe conducted a similar program in Department of Education and Training schools in 2016.

For further information about work-related stress or bullying, refer to the following WorkSafe publications:

- [A Guidebook for Employers – Preventing and Managing Work-Related Stress](#)
- [Your Guide to Workplace Bullying – Prevention and Response](#)

These publications can be found at the WorkSafe Victoria website www.worksafe.vic.gov.au.

For all queries regarding the project, please contact the IR Unit.

Redundancy and Introduction of Change

A redundancy situation can arise as a result of many different circumstances. The [VCEMEA](#) provides that a redundancy can occur for reasons including changes to educational programs or curriculum, technological change, changes to funding or enrolments, changes to work methods, or changes to the structure or organisation of the functions of the school.

Appendix 2 of the VCEMEA contains the redundancy procedures that apply to all staff employed in Catholic schools. This includes a timeline for the redundancy process. The timeline is a guide; however, schools should attempt to meet its timeline milestones.

This year, principals should have identified any potential redundancies taking effect from the start of the 2018 school year by **Friday 4 August 2017**, this being the end of the third week of Term 3.

Principals should also notify all staff, including staff on leave, that a potential redundancy situation has been identified.

To assist principals, [Redundancy Procedures](#) are available on the [CECV website](#) under *Industrial Relations / Policies and Guidelines / Redundancy*. The guidelines explain the process to be followed in relation to a redundancy and include template letters for each stage of the process. Principals are encouraged to contact the IR Unit to discuss their particular redundancy situation.

Introduction of Change

Under Clause 17 of the [VCEMEA](#), principals must notify and discuss with employees the definite decision to introduce major changes in program, organisation, curriculum, structure or technology that are likely to have significant effects on employees. These discussions must commence as early as practicable and be supported in writing with relevant information about the changes include:

- the nature of the proposed changes
- the expected effects of employees
- any other matters likely to affect employees.

By definition of the VCCEMA, 'Significant effects' include:

- termination of employment,
- major changes in the composition, operation or size of the Employer's workforce or in the skills required
- the elimination or diminution of job opportunities, promotion opportunities or job tenure
- the alteration of hours of work
- the need for retraining or transfer of Employees to other work or locations and the restructuring of jobs.

For further information please contact the IR Unit.

Variation of Part-Time Hours

As an alternative to redundancy, it is time to identify potential changes in schools regarding the change of hours and/or days and/or times of attendance for part-time employees.

Clause 15 of the [VCCEMA](#) provides that a variation can only be made if it can be demonstrated that such a variation is required as a result of a change in enrolment, curriculum, program, organisation, structure, technology or funding.

Consultation

If schools wish to implement the above changes, Clause 15 requires that the school consult with the affected employee(s) by:

- advising the employee(s) of the reason for the proposed change (i.e. enrolment changes)
- advising the employee(s) of the change to days, hours and times of attendance as a result of the proposed change
- giving due consideration to the impact of the change on the employee(s) family and personal responsibilities as well as other relevant circumstances.

Required Notice

After complying with the consultation requirements and if the school wishes to proceed with the change, then it must provide at least eight weeks written notice of the variation (i.e. before implementing the change). If that notice is not provided, then the

employee's salary must be maintained for the period of notice not given. However, if the employee agrees in writing to implement the change – for example, because it suits the employee's personal needs – then the notice requirements do not apply.

Significant Reduction in Hours

It is important to note that if the change results in a 'significant reduction of hours' (whether that be as a result of the proposed change or cumulative within the preceding two years), then the employee can elect to **either**:

- accept the change; or
- receive a severance payment.

It is to be noted that a 'significant reduction' is not defined in the VCCEMA. Accordingly, IR advice should be sought when contemplating a reduction in part-time hours to take into account all the relevant circumstances.

The table in Clause 15.2 of the VCCEMA provides an outline of the severance payment that is payable when an employee elects not to accept a 'significant reduction' in hours.

Additional information and template letters can be found under Implementation Guide [Part 6](#) – Variation of Hours of Part-Time Employees.

ES Level 1–5 and Level 2–5 Progression (Top of the Level)

Incremental progression for eligible staff occurred on 1 May 2017. Where an employee has reached the top of the level (such as education support level 1-5), the employee will have no further subdivisions to progress to and does not increment to the next level **i.e. Level 1–5 does not increment to Level 2–1.**

Where an employee's role changes, schools should review levels to ensure the role fits within the appropriate level. Movement between levels is not an automatic process within the incremental cycle. If schools are uncertain if an employee classified correctly or an employee requests a reclassification in accordance with Clause 64.6 of the [VCCEMA](#) please contact the IR Unit for assistance.

Parent–Teacher Interviews

All teachers are expected to attend parent–teacher interviews for their students as set out in the *AITSL Australian Professional Standards for Teachers (Professional Standards)*. The Professional Standards can be found on the [AITSL website](#).

Part-time teachers

The requirements and entitlements of part-time teachers for attendance at parent–teacher interviews are provided in Clause 55.2 of the [VCEMEA](#).

Consultation requirements

Principals must consult with part-time teachers regarding arrangements for attendance at parent–teacher interviews pursuant to Clause 55.2(c) of the VCEMEA. Principals should consider how they plan to accomplish this as early as possible, and provide enough notice to enable general consultation, and to also allow teachers to make suitable arrangements for other responsibilities, including family responsibilities.

Payment for part-time teachers

If the parent–teacher interviews are conducted during Scheduled Class Time (SCT) for which the part-time teacher is not normally required to attend, then the part-time teacher is entitled to payment for additional hours as per clauses 55.2(d) and (e) of the VCEMEA.

For example, a part-time teacher who usually has SCT in the morning only, would be entitled to receive payment where they are required to attend school for parent–teacher interviews conducted during the afternoon (when SCT would normally take place).

However, if parent–teacher interviews occur or continue after SCT (e.g. 3.45 pm – 6.00 pm) and teachers are required to attend, then that attendance is part of the normal professional expectations for the teacher. Consequently there is no entitlement to any additional payment.

Education support employees

An education support employee may be directed to attend parent–teacher interviews in accordance with Clause 65.1(b) of the VCEMEA. If the education support employee works in excess of their weekly hours as a result of attending parent–teacher nights (or for any other reason), they may elect to either take time off in lieu (with the agreement of the employer) or be paid a loading of 33.3% of their normal hourly rate for the excess hours in accordance with Clause 65.5 of the VCEMEA.

457 Visa Changes

The Australian government recently announced changes to the current Temporary Work (Skilled) (subclass 457) visa scheme. Some of the changes that schools should be aware of include:

- From **19 April 2017**, the Occupation list for positions eligible for the 457 visa has been reduced (although teaching remains on the list).
- From **1 July 2017**, there will be a further review of all occupations on the list.
- From **31 December 2017**, the Department of Immigration and Border Protection will commence the collection of Tax File Numbers for 457 visa holders (and other employer sponsored migrants), to ensure that visa holders are not paid less than their nominated salary.
- From **March 2018**, the 457 visa will be abolished with two new streams for either a two or four year visa.

Most importantly for schools, current staff members on a 457 visa can continue to work under the current arrangements. Schools will need to be aware of and review the changes applicable to any future employer-sponsored staff members.

To review the visa changes visit the [Department of Immigration and Border Protection website](#).

For all questions regarding visas please contact the IR Unit.

Work Experience Placement

Work experience is the short-term placement of secondary school students, generally from Years 9 and 10, with employers to provide insights into the industry and the workplace in which they are located. It provides students with the valuable opportunity to:

- develop employability skills
- explore possible career options
- understand employer expectations
- increase self-awareness, maturity, independence and self-confidence.

Students are placed with employers primarily to observe and learn – not to undertake activities that require extensive training or expertise.

The Child Safe Standards are compulsory minimum standards for organisations that provide services for children, to help ensure the safety of children. [Ministerial Order No. 870 – Child Safe Standards – Managing the Risk of Child Abuse in Schools](#) operationalises the Child Safe Standards in registered Victorian schools.

Standard 6 requires the school governing authority to develop, implement, monitor and evaluate risk-management strategies to ensure child safety in school environments.

The definition of ‘school environment’ in Ministerial Order No. 870 extends to any physical or virtual place made available or authorised by the school governing authority for use by a child during or outside school hours. This includes workplace learning environments where students undertake work experience, structured workplace learning, school community work (volunteering) and School-based Apprenticeships and Traineeships.

Schools should develop and implement risk-management strategies prior to students undertaking workplace learning to ensure their safety will not be compromised and ensure that the school complies with the requirements of Ministerial Order No. 870.

Child Safety Risk-management Approach

A child safety risk-management approach is a formal and structured method to managing risks associated with child safety.

The approach should outline how risk is managed, including the individual responsible for the process and a description of the process itself.

The process includes risk identification and assessment, evaluation of current controls, implementation of treatments (as required) and a monitoring and review process to ensure the currency of the risk-management approach.

In developing a child safety risk-management approach, schools should take the following steps in relation to students undertaking workplace learning:

- Identify child safety risks in workplace learning environments.
- Identify any existing risk mitigation measures or controls.
- Assess and rate the child safety risks given the existing controls in place, taking into account the likelihood of the risk, and the likely consequence of the risk.
- If the risk rating is more than the ‘acceptable level’ of risk, identify further risk-management strategies through treatments or other preventions, detection or mitigation strategies and then reassess the risk.

What can schools and work experience employers do to manage child-safety risks in the workplace?

- Ensure that a supervisor has been nominated who will directly supervise the student during their placement.
- Ensure that the student’s supervisor and other employees in the workplace understand acceptable and unacceptable behaviours in dealing with students.
- Schools are encouraged to make employers aware of the school’s approach to child safety by providing them with a copy of the school’s child safety policy and/or statement of commitment.

- Employers should be encouraged to explain to the student, workplace policies regarding bullying, harassment and discrimination, and any other behavioural standards or codes of conduct that apply to the workplace.
- Ensure that the student can readily contact their school if required during the placement.
- Ensure that a school staff member regularly contacts the student to check how their placement is going.
- Ensure that the employer liaises immediately, or as soon as possible, with the school regarding any issues arising in the workplace.

Please note that special provisions apply to all employers of work experience students **under 15 years of age**. Principals are required to ensure that those employers obtain a Child Employment Permit and confirm that all supervisors of these students hold a current Working with Children Check in accordance with [Ministerial Order No. 382 – Work Experience Arrangements](#).

Occupational Health and Safety (OHS)

Prior to commencing work experience, students must satisfactorily complete OHS training; either [safe@work](#) or, for students with disabilities or additional needs, [A Job Well Done](#) training. It is the responsibility of the principal to determine which OHS program is the most appropriate for the student to undertake.

There are many valuable resources on the [Department of Education and Training](#) website and principals are encouraged to familiarise themselves with work placement/experience requirements.

Save the Date!

The CECV, in partnership with its WorkCover insurer Gallagher Bassett, is facilitating an event to raise awareness of workplace stress. This event will be held on 21 August 2017 at the Catholic Leadership Centre. More details will be sent out at a later date.

Electrical Safety

Schools have a responsibility to safely manage the risks associated with electrical equipment stored and used on the school site.

For these reasons, all electrical equipment and installations used within a school must meet the highest standards of safety.

The regular scheduled testing and tagging of electrical equipment and installations and the decommissioning of any equipment found to be deficient will ensure ongoing safety.

Further information is available on the [CECV website](#) under *OHS & WorkCover / A – Z Index / [Electrical Safety](#)*.

Gallagher Bassett OHS & Workers' Compensation Training

Gallagher Bassett provides easy access to training programs that keep staff well informed about OHS and workers' compensation topics.

[myGBeducation](#) provides direct access to learning and qualifications that will benefit the school and its staff.

Courses include:

- Hazard Management
- RTW Responsibilities for Managers and Supervisors
- Chemical Safety in the Workplace
- Developing a Safety Management System
- Effective Contractor Management.

The course catalogue and registration details can be found on the Gallagher Bassett website under [Courses](#).

Industrial Relations and Occupational Health and Safety Training Sessions

Training sessions are conducted at the Catholic Leadership Centre. Registration is now open and the details of training sessions and bookings are available on [My PL \(IPLS\)](#) through the [CEVN website](#) under *Professional Learning / My PL (IPLS)*.

VCEMEA Leave

This session provides a detailed rundown of the leave provisions in the VCEMEA. It runs through the provisions of, and highlights some of the key changes implemented by, the VCEMEA as compared to the *Victorian Catholic Education Multi Employer Agreement 2008*.

Date: 19 June 2017
Time: 10.00 am – 1.00 pm
Activity code: 17IST102A
Registrations close: 9 June 2017

OHS for School Leaders

This one-day course provides an overview of the legal responsibilities for managing OHS within the school environment, including employer and employee responsibilities, strategies to address the most common OHS issues in schools and how to make safety a priority in your school.

Date: 10 August 2017
Time: 9.30 am – 5.00 pm
Activity code: 17IST203C
Registrations close: 2 August 2017

Date: 26 October 2017
Time: 9.30 am – 5.00 pm
Activity code: 17IST203D
Registrations close: 18 October 2017

Know Your Agreement – Education Support

There is a focus in this session on the sections of the [VCEMEA](#) that are most relevant to Education Support Employees in their role at Catholic schools.

Date: 18 August 2017
Time: 10.00 am – 1.00 pm
Activity code: 17IST101C
Registrations close: 20 August 2017.

Date: 27 October 2017
Time: 10.00 am – 1.00 pm
Activity code: 17IST101D
Registrations close: 19 October 2017.

Know Your Agreement – School Leaders

This session focuses on the sections of the [VCEMEA](#) that are most commonly referred to by principals in their role of managing employees. The program would also be of benefit to business managers and deputy principals.

Some of the key provisions covered are as follows:

- Managing Employment Concerns
- Parental Leave
- Introduction of Change
- Redundancy
- Consultation
- Variation of Hours.

Date: 21 August 2017
Time: 10.00 am – 1.00 pm
Activity code: 17IST103C
Registrations close: 11 August 2017.

Date: 30 October 2017
Time: 10.00 am – 1.00 pm
Activity code: 17IST103D
Registrations close: 20 October 2017.

Return to Work (RTW) Coordinator Training

This two-day course (Victorian WorkCover approved) provides the underpinning knowledge required for RTW coordinators. According to the current legislation, schools with \$2.368 million or more rateable remuneration (indexed annually) or who have a worker's compensation claim must appoint a suitably trained RTW coordinator.

Date: 16 & 17 November 2017
Time: 9.30 am – 5.00 pm
Activity code: 17IST205B
Registrations close: 8 November 2017

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